

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

MICHAEL L. GRIMMETT,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00883

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**ORDER**

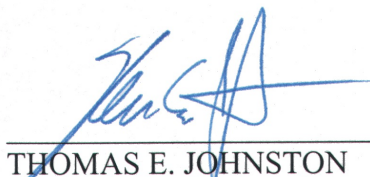
In this action Plaintiff seeks review of the Commissioner of Social Security's ("Commissioner") final decision denying his application for Social Security benefits. On October 19, 2006, this matter was referred to the Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge VanDervort filed his PF&R on February 21, 2007 [Docket 15]. In that filing, the magistrate judge recommended that this Court grant Defendant's Motion to Remand, reverse or vacate the decision of the Commissioner, and remand this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings as suggested by Paragraph 2 of Defendant's Motion to Remand.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*,

727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by March 9, 2007, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). To date, no objections have been filed.

Accordingly, the Court **ACCEPTS** the recommendation of the magistrate judge, **GRANTS** Defendant's Motion to Remand [Docket 14], **VACATES** the decision of the Commissioner, **REMANDS** this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings as suggested by Paragraph 2 of Defendant's Motion to Remand, and **DISMISSES** this action from the Court's docket. The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: April 19, 2007

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE